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Chapter



RERA Dashboard

# RESI.COMM

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MAMTA BINANI & ASSOCIATES

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Volume 12

Page 1

Dear Members,

Greetings!!!

We are very happy to share with you this 12th Newsletter on RERA.

RERA act gives more powers to the Real Estate Regulatory Authority to enforce its orders against any persons who have not complied with its order.

As per section 40 of the RERA act the RERA Authorities has powers to order recovery of interest, penalty or compensation etc. from the defaulters as arrears of land Revenue. Once the recovery order is passed it will be forwarded to District Collector to collect the due amount from the assets of the Judgement Debtor and to submit the report to the RERA.

Recently similar order was passed by the Punjab Real Estate Regulatory Authority against one real estate firm for recovering the due amount of Rs.3.04 crores from them for non-complying with its refund order. The order is passed under section 40 of the RERA act 2016.

The Kerala RERA has amended the RERA rules which now mandate the Promoters to submit the Form.6.

Form no. 6 is a declaration submitted to the K-RERA saying that all promises, including those on commonamenities, made to the allottees by a promoter are completed as per the terms in the sales agreement. It alsoendorses that the promoter has handed over all mandatory documents to the allottees' association. They includethe registration deed of the property, approved plan, occupancy certificate and drawings of wiring and plumbing all original documents. Earlier this form 6 is required to be certified by the Architect. In case of complaint from the customers for non-delivery of promises made by the Promoters then the RERA authority finds difficult to take remedial action and its take time because the signatory of the Form-6 is an Architect. Therefore the Kerala-RERA has now amended the rules to mandate the promoter to sign the Form-6 declaration.

This newsletter consists of various orders passed by the Court and State RERA authorities and recent developments taking place inthe realty sector.

Thank You.

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## *RERA issues Rs 3.04-cr recovery notice against real estate firm*

A Delhi/Gurgaon-based real estate developer with a flagship mega housing project in the city – Ireo Waterfront – at Daeitwal village on NH-95 has once again landed in trouble after the Real Estate Regulatory Authority (RERA) issued a recovery order against the firm for default under Section 40 of the Real Estate (Regulation and Development) Act, 2016. Earlier also, the National Consumers Disputes Redressal Commission had issued orders for auction of part of its land at Dakha in the district for failure to refund money to two property buyers who had charged the developer with unfair trade practices and cheating.

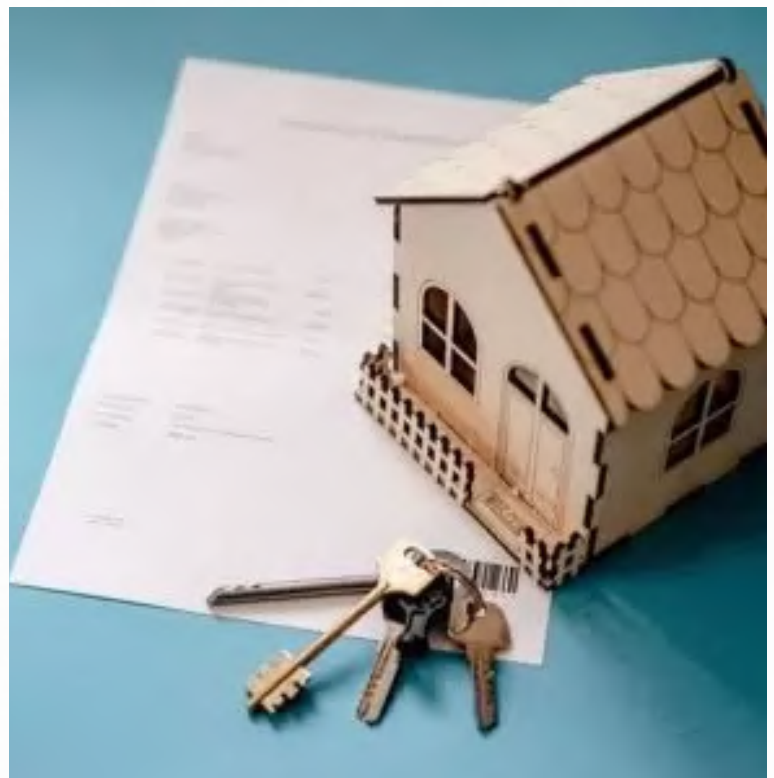
In the recovery orders issued on November 24, 2022, as per Section 40 of the RERA Act, 2016, sent to Deputy Commissioner-cum-District Collector the RERA secretary said, “Respondents (Ireo Waterfront Pvt Ltd) have failed to comply with directions passed vide order dated May 3, 2019, by the bench of Shri JS Khushdil, Adjudicating Officer of the Authority in complaint proceedings under section 31 of the Real Estate (Regulation and Development) Act 2016 bearing complaint No TR/AO/76/2019-GC/1109/2018 titled as “Keshav Rai Dhanda versus M/s Ireo Waterfront Pvt Ltd.”

Under Section 40 of the Act, the recovery of interest, penalty or compensation etc is recoverable from the defaulter as arrears of land revenue. Rule 24 of the Punjab State Real Estate (Regulation and Development) Rules, 2017, also stipulates the same condition.

Issuing directions to the District Collector, the RERA order said, “You are requested to ensure recovery of the due amount of Rs 3,04,55,193, as arrears of land revenue from the assets of the judgement debtor/respondents and further report in this regard be submitted to the Authority before next date of hearing.”

Deputy Commissioner Surabhi Malik said that the recovery orders issued by RERA had been forwarded to concerned circle office of the Revenue Department for compliance. The circle officer (Dakha Naib Tehsildar) was not available for comments despite repeated attempts to contact him.

When contacted, Hemant Gupta, president (Sales), Dream City (Ireo Waterfront) said, “We shall be complying with all the orders of the Hon’ble court. Further we are putting our best efforts to settle the said matter with the aggrieved buyer.”





# Bengal govt to launch website of Real Estate Regulatory Authority



The Mamata Banerjee-government will formally launch the website of West Bengal Real Estate Regulatory Authority on Tuesday, allowing real estate developers and home buyers to register projects and complaints, respectively.

Even though the authority was formed and members took charge from the third week of October 2022, the non-functional website hindered the effective operationalisation of the regulation which is meant to protect the interest of buyers and bring transparency in the opaque sector.

In the absence of a functional website, developers could not register their projects which has been launched over the last 18 months.

Similarly, the buyers could not submit their complaints. Housing minister Aroop Biswas will do the honours on Tuesday by formally launching the website, more than one-and-half years after the Supreme Court of India struck down WB Housing Industry Regulatory Authority (WBHIRA), a Bengal-specific act promulgated by the state.

There was a regulatory void after the SC verdict in May 2021 as HIRA was struck down and RERA yet to be operational.

After waiting for months for the Authority to be set up and the website ready, the developers started launching projects without mandatory RERA registration.

According to the model RERA Act introduced by the centre in 2016 and implemented by various states and union territories, no project above a certain size can be sold without registration with the Authority.

"The real estate community has been looking forward to a fully functional RERA which will spur an all round growth of the sector in the state," Sidharth Pansari, president of Credai Bengal, said.

Rahul Todi, managing director of Shrachi Realty, hoped the developers would now be able to register their new projects on the website.





# *Kerala amends rules in realty sector to make builders more accountable to buyers*

THIRUVANANTHAPURAM: The government has amended the rules in the realty sector to make builders more accountable to customers with regard to the promises made to them. As per the amendment, the onus of submitting Form no.6 under the Kerala Real Estate Regulatory Authority (General) Regulations, 2020, has been transferred from the architect to the promoter of a project.

Form no. 6 is a declaration submitted to the K-RERA saying that all promises, including those on common amenities, made to the allottees by a promoter are completed as per the terms in the sales agreement. It also endorses that the promoter has handed over all mandatory documents to the allottees' association. They include the registration deed of the property, approved plan, occupancy certificate and drawings of wiring and plumbing - all original documents.



According to the authority, the reform equips it to take swift action on complaints by customers. “We received several complaints from customers on non-delivery of promises. Remedial action will take time when the signatory of Form no. 6 is the architect. Now on, it is easier for us to take penal action against the promoter directly,” K-RERA chairman P H Kurian told TNIE.

Customers should check all documents and updates on the project's progress on the K-RERA website to avoid getting duped, according to the authority. “They can approach the authority in case the builder has made false claims. This is applicable to Form 6 as well. Customers should become more aware of their rights and ensure that they get a fair deal,” Kurian said.

The revised Form 6 is available on the K-RERA website. The new form is effective from January 18, 2023, the date on which the amendment notification was published in the Gazette.

Projects registered with K-RERA will help customers avoid troubles to a large extent.

While registering a project with K-RERA, the promoter has to upload all details of the project on [www.rera.kerala.gov.in](http://www.rera.kerala.gov.in). They include audited balance sheet of the promoter, track record, records of land ownership, sanctioned plans and NOCs from authorities concerned. This helps customers get real-time information on all aspects of the project. The quarterly updates on the project's progress will also be uploaded by promoters.





# *Bombay HC seeks to know if MahaRERA can identify, classify & rate builders*

MUMBAI: The Bombay High Court has sought to know from the Maharashtra government if the state's housing regulator Maha RERA could identify, classify and rate private developers so that societies and other authorities could make an informed decision while choosing a builder.

A division bench of Justices Gautam Patel and Neela Gokhale was on February 3 hearing a petition taken up suo motu (on its own) by the HC based on a plea filed by a person seeking payment of unpaid transit rent and against the stalled redevelopment of a cessed property known as 'Ratilal Mansion' in south Mumbai.

The redevelopment of the building was stalled in 2013 after private developer Orbit Corporation Limited, which was involved in the project, went into liquidation. By then, it had built nine floors of the new building.

Maharashtra Housing and Area Development Authority (MHADA)'s advocate Prakash Lad had on February 3 informed the HC that it was in the process of appointing a structural consultant to submit an audit report of the semi-finished structure.

He further said that MHADA now has the power to redevelop a building itself.

The bench noted that the dilemma before the MHADA and the society is not just the structural audit and engineering technicalities but about making a proper and informed choice of a developer.

The bench sought to know from the Maharashtra government if an authority such as the Maharashtra Real Estate Regulatory Authority (MahaRERA) can identify classify or rate developers according to any measure that it deems appropriate

"This would be to the benefit of the concerned society as also MHADA, and would minimise the risk to a considerable extent in project completion. With a developer database accessible, both the societies and MHADA would be able to make a better and informed decision about the choice of developer," the court said.

The bench sought to know from MahaRERA if it has a database of developers and if the regulator has a rating system and if not then whether the authority was willing to consider developing one.

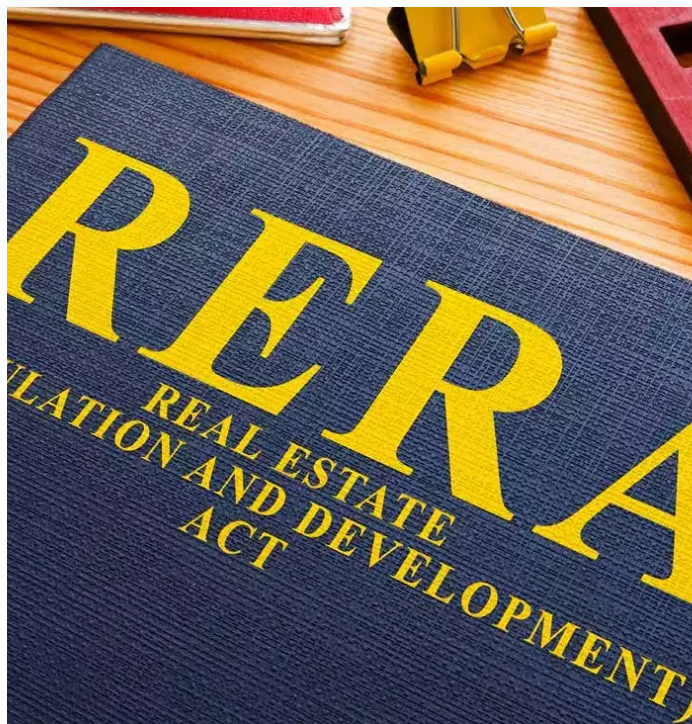
"We approach MahaRERA not just as a statutory authority but as a body with specialised knowledge, expertise and data, seeking its assistance," it added

While taking suo motu cognisance of the matter, the court had in January noted that this was a problem that occurs repeatedly throughout the city, especially with the redevelopment of cessed buildings

The bench had then noted that the law has no effective provision in force on what is to be done when a developer cannot complete construction leaving members out of their homes and on transit and large amounts of unpaid arrears of transit rent.

The building in question was demolished in 2009 and was to be redeveloped. It has now been attached by the BMC (Brihanmumbai Municipal Corporation) over unpaid property tax.

The court has posted the matter for further hearing on March 3.





# *Haryana RERA forfeits Rs 50 lakh bank guarantee of realty developer JMS Infra*

## **Synopsis**

According to RERA, developer failed to fulfill the commitments it had made at the time of granting the RERA registration certificate (RC) in March 2022.

Gurgaon bench of the Haryana real estate regulatory authority (HARERA) has forfeited the bank guarantees of the real estate developer JMS Infra Realty Private Limited.

According to RERA, the developer failed to fulfill the commitments it had made at the time of granting the RERA registration certificate (RC) in March 2022.

As per the conditions of the RC, the promoter had to submit the approved service plans and estimates and the approved zoning plan of the project within three months from the date of granting of the RERA registration certificate.

The promoter had submitted Rs 25 lakh each for the two conditions as security deposit with the authority.



“The bank guarantees were submitted to authority by the promoter as security for timely submission of approved service plans and estimates and approved zoning plan as stated in the registration certificate which was issued to the promoter by the Haryana real estate regulatory authority, Gurugram in March 2022,” said the authority.

“Since the promoter has not complied with the conditions of the registration certificate within stipulated time period, therefore the bank guarantees submitted by the promoter are being forfeited by the authority,” the authority said.



The promoter had obtained the RERA registration certificate for plotted colony ‘The Nation’ that he is developing under the Deen Dayal Jan Awas Yojana (DDJAY) scheme at Sector 95, Gurugram.

# *Property dealer forges papers for Haryana Rera certification, registration revoked*

**GURUGRAM:** In a probably first such case, a property dealer lost his H-Rera registration for forging documents related to his office address.

Vineet Kejriwal had forged documents and signatures of an engineer to show the latter's office-RND Projects-in Bristol hotel as his rented office. After the victim's complaint, the deputy commissioner's office ordered an inquiry and found the claims to be correct. This prompted the DC to order the cancellation of his Rera registration.



Complainant Deepak Hans said, "I filed a complaint with the DC's office and H-Rera in July last year against Kejriwal for forging documents to obtain the regulator's certification at our company's address. I came to know about the forgery through an RTI query to get the details of the registered property dealers in the city, on a tip-off."

In the RTI reply, it came to light that Kejriwal's licence, issued under the signature of DC Gurugram, mentioned the address of Shop number 30, GF, Bristol hotel.

"It was clear indicative of the fact that the accused forged and unilaterally manufactured documents to mislead the DC office to obtain the certification. Even the rent agreement was completely false and fabricated," he alleged.

After the victim's complaint, the deputy commissioner ordered an inquiry and appointed the city magistrate as the investigation officer.

"I have reached the conclusion that the documents submitted to authorities by Vineet Kejriwal were most likely forged and the accused has made himself liable for appropriate legal action. Licence issued to the accused on those documents may be cancelled..." said the inquiry report.

Based on the inquiry report, the deputy commissioner ordered the cancellation of Kejriwal's Rera registration and recommended the regulator to initiate action against him. DC further wrote to the commissioner of police and the district revenue officer to take action against the accused as per the recommendations of the inquiry report.

H-Rera had earlier issued warnings to over 1,800 real estate agents registered with the regulator, asking them not to indulge in unprofessional activities.





# Over 1 lakh homebuyers' disputes resolved under RERA in 5 years, report



The Real Estate Regulatory Authorities (RERA) across 27 states and 8 union territories have resolved over 1 lakh cases of homebuyers' disputes over the last five years since its implementation that started in May 2017, showed a JLL India study based on data from the Ministry of Housing & Urban Affairs (MoHUA).

Across these states and union territories nearly 1 lakh projects and 71,514 agents have been registered to date under the authorities set up under the Real Estate (Regulation and Development) Act, 2016.

“One of the important pillars of the RERA regulation was grievance redressal. Homebuyers who suffered due to various issues and challenges like incomplete projects, project delays, lop-sided home-buying agreements, etc., were looking for justice. RERA sought to address these issues by creating a separate system to address the homebuyers' complaints. Homebuyers currently have the option of filing a complaint with the RERA Authority, RERA Tribunal and RERA Adjudicating Officer,” said Samantak Das, Head of Research and REIS.

According to him, the success of the system can be gauged from the fact that the cumulative cases disposed of by various RERA authorities have witnessed a sharp rise annually. The cumulative number of cases disposed increased to 106,428 cases as of January 2023 from 18,543 as of June 2019.

Around 56% of total projects were registered between 2019 and 2022, while 5.7 times increase was witnessed in cases closed since 2019.

Homebuyers in some of the residential markets were saddled with a lot of grievances. Some of these markets witnessed a sharp surge in the filing of complaints that were addressed by the RERA authorities in their respective states. Uttar Pradesh accounted for the largest share of dispute resolution with a 40% share of total cases closed. Five states accounted for 81% of cases closed as of January 2023.

The mandatory registration of projects under RERA brought much-needed uniformity in collating information essential for homebuyers. The registration of projects reflects the trends in the residential sector as is evident from the lowest registration during the pandemic year 2020. The state-wise analysis of the registrations indicates that few states account for a large share of registrations.

The state of Maharashtra accounts for the largest share of projects registration at 39% due to the presence of large cities like Pune, Nagpur and Nashik apart from the largest property market of the Mumbai Metropolitan Region comprising Thane, Navi Mumbai and Mumbai suburban areas. Tamil Nadu has the second largest share at 13% due to cities like Chennai, Coimbatore, and Madurai. The presence of cities like Ahmedabad, Surat, Vadodara, and Rajkot makes Gujarat the third largest in registration at 11%.

The national capital territory of Delhi comprises three states and one union territory and hence the registration is divided among its constituents. Karnataka and Telangana rank in the top six states due to Bengaluru and Hyderabad cities respectively. As a mandate under the RERA Act, all projects need to be registered and this has brought the much-needed uniformity in collating information essential for homebuyers.

Since estate agents form a key part of residential real estate, registration of agents was mandatory to sell projects registered under RERA. Agent registration grew to 71,514 as of January 2023 from 33,270 as of January 2019 translating to a CAGR growth of 21%.

The state-wise share of agents registered till January 2023 reveals that just five states account for 79% of total share. Maharashtra accounts for the largest share of registered agents on account of the higher income potential arising largely from the Mumbai residential market. Uttar Pradesh accounts for the second largest share of 8% as NOIDA which falls under the state jurisdiction has the largest share of residential markets of NCR-Delhi. Rajasthan share of agent registration at 7% is due to the inclusion of Alwar and Bharatpur districts as part of the NCR -Delhi region. The project and agent registration has helped in improving transparency and protecting the rights of homebuyers.

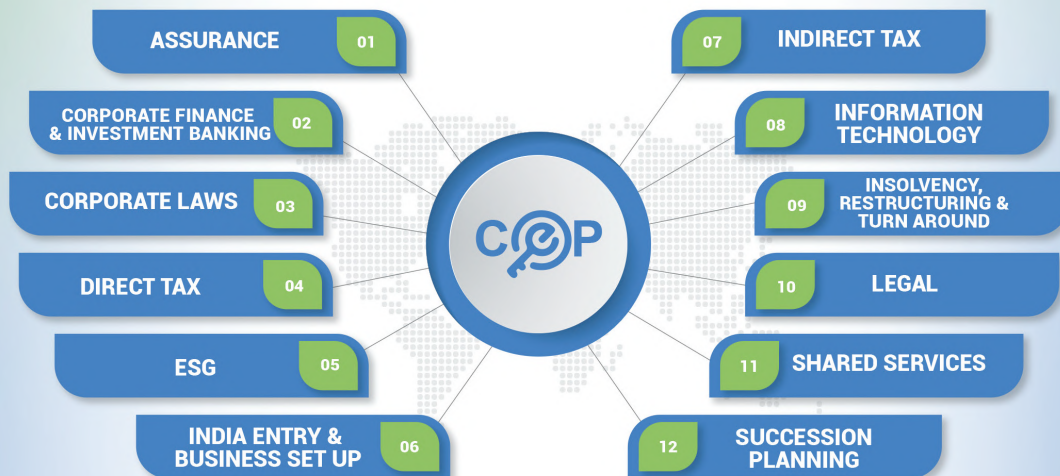




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